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Docket No. AUS92001396US1 Serial No. 09/915,490 Atty: AJP

Applicant: BROWN ET AL

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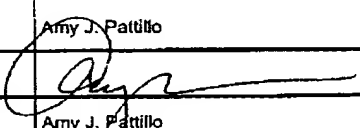
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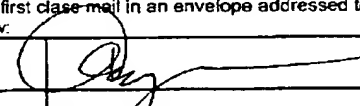
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	Filing Date	7/28/2001	
	First Named Inventor	Brown et al.	
	Art Unit	2157	
	Examiner Name	Avi M Gold	
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Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of Michael Wayne Brown, et al. Serial No.: 09/915,490 Confirmation Number: 6710 Filed: 7/26/2001 Title: WATERMARKING MESSAGING SESSIONS	: Before the Examiner: : Avi M Gold : Group Art Unit: 2157  : IBM Corporation (AP) : c/o Amy J. Pattillo : P.O. Box 161327 : Austin, Texas 78716
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**APPEAL BRIEF UNDER 37 CFR §41.37**

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This Appeal Brief is submitted in support of the Appeal in the above-referenced application pursuant to a Notice of Appeal filed January 18, 2006 as required by 37 C.F.R. 41.31. This is an appeal from a final rejection dated October 19, 2005 of claims 1, 3, 5-9, 12-14, 16-20, 23-25, 27-31, 34-39, 41-44, 46-49, and 54-56 of application serial number 09/915,490, filed July 26, 2001.

Appeal Brief

1

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**I. Real Party in Interest**

The real party in interest in the present application is the Assignee, International Business Machines Corporation of Armonk, New York, as evidenced by the Assignment set forth at Reel 012045, Frame 0311.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**II. Related Appeals and Interferences**

There are no Appeals or Interferences known to Appellant, Appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. No decisions have been rendered by a court or the Board at this time in any related applications.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

### **III. Status of Claims**

#### **1. Status of All Claims in Application**

- a. Claims Rejected: 1, 3, 5-9, 12-14, 16-20, 23-25, 27-31, 34-39, 41-44, 46-49, and 54-56.
- b. Claims Allowed or Confirmed: None
- c. Claims Withdrawn from Consideration: None
- d. Claims Objected to: None
- e. Claims Cancelled: 2, 4, 10, 11, 15, 21, 22, 26, 32, 33, 40, 45, 50-53

#### **2. Claims on Appeal**

- a. The claims being appealed are: 1, 3, 5-9, 12-14, 16-20, 23-25, 27-31, 34-39, 41-44, 46-49, and 54-56.
- b. The claims being appealed stand finally rejected as noted by the Examiner in the Examiner's Action dated October 19, 2005. These rejected claims which form the basis of this appeal are reproduced in the attached Appendix.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**IV. Status of Amendments**

In Appellants' response dated July 29, 2005, Appellants amended claims 1, 3, 8-9, 12-14, 16-20, 23-25, 27-31, 34-39, 41-44, 46-49, and 54-56. The Examiner entered the amended claims in the Office Action dated October 19, 2005. Appellants did not present any additional amendments after the Office Action dated October 19, 2005, finally rejecting claims 1, 3, 5-9, 12-14, 16-20, 23-25, 27-31, 34-39, 41-44, 46-49, and 54-56.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

### **V. Summary of Claimed Subject Matter**

Claim 1 is directed to a method for recording a real time chat messaging session. (Specification, Abstract, paragraph 0060). At least one server system enables the real time chat messaging session, via a network, between a selection of client systems from among multiple client systems communicatively connected to the network. (Specification, paragraphs 0049, 0054, Figure 2, elements 42, 44, 40a-40n). The server system applies a separate distinguishable watermark to each of the message entries communicated within the chat messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of the message entry from among the multiple client systems. (Specification, paragraphs 0050, 0060, 0078, 0081, 0082, Figure 3, elements 42, 62, Figure 7, elements 106, 124). The server system records a log of the chat messaging session, wherein the log comprises the message entries with each of the separate distinguishable watermarks applied, such that an origin of each of the message entries stored in the log is traceable and the integrity of each of the message entries stored in the log is verifiable according to the distinguishable watermark. (Specification, paragraphs 0034, 0036, 0057, 0061, 0071, 0079, 0082, Figure 3, elements 51a-51n, Figure 5, elements 80, 82, and 84, Figure 6, elements 94 and 98, Figure 7, elements 110 and 126).

Claim 3 is directed to the method of claim 1, including a method for applying each separate distinguishable watermark and recording the log of the chat messaging session at a particular client system from among the multiple client systems. (Specification, paragraphs 0050 and 0052)

Claim 5 is directed to the method of claim 1 and the step of applying a separate distinguishable watermark to each of the message entries, including a method for applying a separate textual watermark to each of the message entries of the messaging session. (Specification, paragraphs 0036, 0037 and 0072, Figure 5, elements 86, 88, and 90).

Claim 6 is directed to the method of claim 1 and the step of applying a separate distinguishable watermark to each of the message entries, including a method for applying a separate graphical watermark to each of the message entries of the messaging session. (Specification, paragraphs 0036, 0037).

Claim 7 is directed to the method of claim 1 and the step of applying a separate distinguishable watermark to each of the message entries, including a method for applying a



Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

separate audible watermark to each of the message entries of the messaging session.  
(Specification, paragraphs 0036, 0037).

Claim 8 is directed to the method of claim 1, including a method for transmitting the log of the chat messaging session to the users participating in the chat session. (Specification, paragraph 0080, Figure 7, element 116).

Claim 9 is directed to the method of claim 1, including storing the log of the chat messaging session in a log file repository for tracing the origin of the message entries according to each separate distinguishable watermark. (Specification, paragraph 0059, Figure 3, element 61, Figure 7, element 114).

Claim 12 is directed to the method of claim 1, including applying each separate distinguishable watermark in response to a user requested received from at least one of the client systems to record the message entries with watermarking. (Specification, paragraphs 0086 and 0087, Figure 4, element 75, Figure 7, elements 102 and 104).

Claim 13 is directed to the method of claim 1, including applying the distinguishable watermark to the message entries already recorded in a second log of the chat messaging session. (Specification, paragraphs 0063 and 0069).

Claims 14, 16, 17, 18, 19, 20, 23, and 24 are directed to a messaging service (Specification, paragraphs 0049 and 0050, Figures 2 and 3, element 42, communicatively connected to a network, for enabling at least one real time chat messaging session channel (Specification, paragraph 0054, Figure 3, elements 52a-52n) via said network (Figure 2, element 44) between a selection of multiple client systems communicatively connected to the network (Specification, paragraphs 0049, 0050, Figure 2, elements 40a-40n and 42,) with the means for performing the elements described in claims 1, 5, 6, 7, 8, 9, 12, and 13, respectively.

Claims 25, 26, 27, 28, 29, 30, 31, 34, and 35 are directed to a computer program product for performing the steps described in claims 1, 5, 6, 7, 8, 9, 12, and 13, respectively. In particular, the specification describes the computer readable medium with computer readable program code means for performing the elements of claims 25, 26, 27, 28, 29, 30, 31, 34, and 35 in the Specification, paragraphs 0041, 0042, and 0043.

Claim 36 is directed to a method for a user at one client system to participate in a chat messaging session with at least one other client system facilitated through a chat messaging session channel by a chat messaging server. (Specification, paragraph 0049, 0050, 0054, Figure

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

2, elements 40a-40n and 42, Figure 3, elements 52a-52n). A user participating in a chat messaging session receives, from the chat messaging server, multiple message entries as each message entry is entered by other users participating in the chat messaging session through other client systems. (Specification, paragraphs 0049, Figure 4, element 76). The user receives, separate from participating in the chat messaging session, a recording of the chat messaging session from the chat messaging server, wherein the message entries for the chat session are each embedded by a separate digital watermark identifying a separate origin of each of the message entries from among the other client systems, such that use of the recording of the chat messaging session is traceable according to a watermark. (Specification, paragraph 0051, 0071, Figure 3, elements 51a-51n, Figure 5, elements 80, 82, and 84).

Claim 37 is directed to the method of claim 36, including a method for requesting, from the chat messaging server, the recording of the chat messaging session with each of the multiple entries embedded by the separate digital watermarks. (Specification, paragraphs 0052, 0065, and 0085, Figure 8, element 154).

Claim 38 is directed to the method of claim 36, including a method for participating in the chat messaging session by entering a message entry for distribution by the chat messaging server to the other client systems through the chat messaging session channel. (Specification, paragraphs 0049, 0068, and 0087, Figure 2, elements 40a-40n, 46a-46n, Figure 8, element 164).

Claim 39 is directed to the method of claim 36, including a method for participating in the chat messaging session by entering watermarked message entries for distribution by the chat messaging server to the other client systems participating in the chat messaging session. (Specification, paragraphs, 0050, 0069, and 0087, Figure 4, element 75, Figure 8, elements 162 and 164).

Claims 41, 42, 43, and 44 are directed to a client system participating in a chat messaging session with at least one other client system facilitated through a chat messaging session channel by a chat messaging server (Specification, paragraphs 0049, 0050, 0054, Figure 2, elements 40a-40n and 42, Figure 3, elements 52a-52n) with the means for performing the elements described in claims 36, 37, 38, and 39, respectively.

Claims 46, 47, 48, and 49 are directed to a computer program product for performing the steps described in claims 41, 42, 43, and 44, respectively. In particular, the specification describes the computer readable medium with computer readable program code means for

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

performing the elements of claims 46, 47, 48, and 49 in the Specification, paragraphs 0041, 0042, and 0043.

Claim 54 is directed to a method for a user at a particular client system enabled to participate in a chat messaging session with at least one other client system through a chat messaging session channel facilitated by a chat messaging server. (Specification, paragraph 0049, Figure 2, elements 40a-40n and 42). A new message entry entered at a particular client system is detected, wherein the new message entry is intended for transmission through said chat messaging session channel to the other client systems participating in the chat messaging session (Specification, paragraphs 0049, 0068, and 0085, Figure 4, element 78, Figures 8, element 152). The particular client system applies a digital watermark to the new message entry prior to transmission for distribution within the chat messaging session, wherein the digital watermark identifies an origin of the new message entry from the particular client system, such that an origin of the new message entry is traceable to the particular client system. (Specification, paragraphs 0050, 0069, and 0087, Figure 4, element 75, Figure 8, elements 160, 162, and 164).

Claim 55 is directed to a particular client system participating in a chat messaging session with at least one other client system facilitated through a chat messaging session channel by a chat messaging server (Specification, paragraphs 0049, 0050, 0054, Figure 2, elements 40a-40n and 42, Figure 3, elements 52a-52n) with the means for performing the elements described in claim 54.

Claim 56 is directed to a computer program product for performing the steps described in claim 54, respectively. In particular, the specification describes the computer readable medium with computer readable program code means for performing the elements of claim 54 in the Specification, paragraphs 0041, 0042, and 0043.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**VI. Grounds of Rejection to be Reviewed on Appeal**

1. Claims 1-5, 8-16, 19-27, and 30-56 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477).

2. Claims 6, 7, 17, 18, 28, and 29 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477) and further in view of Rodriguez (US Patent 6,650,761).

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

## **VII. Argument**

### **1. 35 U.S.C. 103(a), Alleged Obviousness, Claims 1, 3, 9, 12, 13, 14, 20, 23, 24, 25, 31, 34, and 35**

The Final Office Action rejects claims 1, 3, 9, 12, 13, 14, 20, 23, 24, 25, 31, 34, and 35 under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477). [Final Office Action, p. 2] The rejection is respectfully traversed.

Independent method claim 1, which is representative of system claim 14 and computer program product claim 25 with regard to similarly recited rejection, reads as follows:

1. A method, in at least one server system for enabling at least one real time chat messaging session channel via a network between at least a selection of a plurality of separate client systems communicatively connected to said network, for recording a real time chat messaging session, said method comprising the steps of:
  - applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within said chat messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of said message entry from among said plurality of separate client systems; and
  - recording a log of said chat messaging session, wherein said log comprises said plurality of messaging entries with each said separate distinguishable watermark applied, such that an origin of each of said plurality of message entries stored in said log is traceable and the integrity of each of said plurality of message entries stored in said log is verifiable according to said distinguishable watermark.

In the rejection of claims 1 and 25 the Examiner states the following ground of rejection:

Chang teaches the invention substantially as claimed including a method and apparatus for securely transmitting transactions from an application program (see abstract).

Regarding claims 1 and 25, Chang teaches a method, in at least one server system for enabling at least one messaging session via a network between at least a selection of a plurality of separate client systems communicatively connected to said network, and program for recording a messaging session, said method comprising the steps of:

Applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within a messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of said message entry from among said plurality of separate client systems (fig. 1, fig 2., col. 4, lines 21 – 31, Chang discloses messages given a digital signature); and

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

Recording a log of said messaging sessions, wherein said log comprises said plurality of messaging entries with each said separate distinguishable watermark applied, such that an origin of each of said plurality of message entries stored in said log is traceable and the integrity of each of said plurality of message entries stored in said log is verifiable according to said distinguishable watermark (col. 5, lines 55-67, Chang discloses an audit trail that keeps track of users and their digital signatures on messages and the digital signature signifying a particular user which identifies the origin of message, col. 2, line 62 – col. 3, line 4, Chang discloses the storage of users public key to verify a digital signature).

Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system.

However, Tang teaches a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item (see abstract). Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract; col. 1, line 59 – col. 2, line 49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chang in view of tang to use a digital watermark on messages in a chat messaging system. One would be motivated to do so because the signature can convey where and whom the message originated from. [Office Action, pp. 3-4]

In the rejection of claim 14, the Examiner states a similar ground of rejection, citing Chang et al, figures 1 and 2 and col. 1, lines 55-65 as describing “a messaging server communicatively connected to a network, said messaging server for enabling at least one real time messaging session channel via said network between at least a selection of a plurality of separate client systems communicatively connected to said network to facilitate said messaging session.” [Office Action, p. 6]

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to 1, 14, and 25 for the following reasons.

**Chang et al. and Tang et al. do not teach or suggest all of the claim limitations of claims 1, 14, and 25**

In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In particular, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Appellants respectfully note that the Examiner does not show, nor do the references teach or suggest, separately or in combination, each of the elements of claims 1, 14, and 25.

First, neither Chang et al. nor Tang et al., separately or in combination, teaches or suggests at least one server system for enabling at least one real time chat messaging session channel via a network between at least a selection of a plurality of separate client systems communicatively connected to said network because neither Chang et al. or Tang et al. teaches or suggests a server system for facilitating a messaging session channel for communication between client systems. Claims 1, 14 and 25 include the element of “a server system for enabling at least one real time chat messaging session channel via a network between at least a selection of a plurality of separate client systems communicatively connected to said network.” The rejection only addresses the element in the rejection of claim 14, in which the Examiner cites Chang et al. as teaching the “a messaging server communicatively connected to a network, said messaging server for enabling at least one real time messaging session channel via said network between at least a selection of a plurality of client systems communicatively connected to said network to facilitate said messaging session” in figures 1 and 2 and col. 1, lines 55-65. [Office Action, p. 6] The Examiner then cites Tang as teaching using a digital watermark on messages in a chat messaging system. [Office Action, p. 7]

Chang et al. does not, however, teach or suggest “a messaging server communicatively connected to a network, said messaging server for enabling at least one real time messaging session channel via said network between at least a selection of a plurality of client systems communicatively connected to said network to facilitate said messaging session.” Figures 1 and 2 of Chang et al. show a financial server 102 that communicates with one or more client computer 106, to send to each client computer an HTML document in a plain or encrypted format and receive a message from each client computer 106 with the form data. Further, Chang et al. describes a “financial transaction processing system” that “is used to ensure that financial transactions are securely transmitted between the user and server across a public network” (col. 1, lines 59-61). Col. 1, lines 61-65 of Chang et al. describe that the system “includes a group of users associated with client computers that are interconnected, by a computer network such as the Internet, to at least one financial server associated with a server computer.” Thus, Chang et

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

al. describes a financial transaction processing system of at least one server that communicates with each individual client computer to facilitate individual transactions, but Chang et al. does not describe a server system that facilitates communication between each of the individual client systems. In addition, Chang et al. does not teach or suggest a server system for enabling a messaging communication channel between at least of a selection of a plurality of client systems to facilitating a messaging session between the client systems. Further, in contrast, claims 1, 14, and 25 describe a server system or messaging system that enables a messaging session channel between multiple client systems for facilitating a messaging session between the client systems.

In addition, Tang et al. does not teach or suggest “a chat messaging system” (as referred to by the Examiner), and in particular does not teach or suggest a messaging server communicatively connected to a network, said messaging server for enabling at least one real time messaging session channel via said network between at least a selection of a plurality of client systems communicatively connected to said network to facilitate said messaging session. The Examiner describes Tang et al. as describing “the use of an audio signature attached to a data item in an instant messaging system” in the abstract and col. 1, line 59 through col. 2, line 49. [Office Action, pp. 3, 7] Tang et al., col. 1, line 58-col. 2, line 3, describes

“a system that generates an audio signature for a data item based on a source identifier associated with the data item. The system operates by receiving a source identifier along with a data item. (This source identifier can include an electronic signature identifying a source of a data item, such as an email address.) The system maps the source identifier to the audio signature using a mapping function that allows a user to distinguish the audio signature from other audio signatures generated for other source identifiers, and where the mapping function always maps the same source identifier to the same audio signature.”

In addition, Tang et al., col. 2, lines 12-19 describe that “the data item can include an electronic mail message, a paper signal, a telephone call, a communication in an instant messaging system, an indicator of a new participant into a conference call, an indicator of an entry of a new participant into a chat room, or an electronic cookie that identifies a client computer system to a website.” Thus, Tang et al. merely describes that a computer system receiving a communication can create an audio signature alerting the user to the arrival of the communication where the audio signature indicates the source of the communication. With respect to instant messaging, Tang et al. merely describes that the data item received at the computer system may be one of multiple types of communications, including a communication in an instant messaging system.



Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

*Tang et al.*, abstract, col. 2, lines 12-19. *Tang et al.* does not teach or suggest an instant messaging system or a server that facilitates an instant messaging system. In contrast, claims 1, 14, and 25 describe a chat messaging system for enabling a messaging channel for chat communications between client systems.

Therefore, because *Chang et al.* does not teach or suggest a server system for enabling a messaging session channel for facilitating a messaging session between client systems and *Tang et al.* does not teach or suggest a chat messaging system, the combination of *Chang et al.* and *Tang et al.* also does not teach a server system for enabling a chat messaging session channel for facilitating a chat messaging session between client systems. Because *Chang et al.* and *Tang et al.*, separately or in combination do not teach or suggest the chat messaging system of claims 1, 14, and 25, *Chang et al.* and *Tang et al.* fail to teach or suggest at least one element of claims 1, 14, and 25 and therefore a *prima facie* case of obviousness is not established.

Second, neither *Chang et al.* nor *Tang et al.*, separately or in combination, teaches or suggests applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within said chat messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of said message entry from among said plurality of separate client systems because neither *Chang et al.* nor *Tang et al.* teaches applying a separate distinguishable watermark to each of a plurality of message entries.

The Examiner cites figures 1 and 2 and col. 4, lines 21-31 of *Chang et al.* as disclosing applying a separate distinguishable watermark to each of a plurality of message entries because *Chang et al.* discloses “messages given a digital signature.” [Office Action, p. 3] The abstract of *Chang et al.* describes:

“[a] financial transaction processing system includ[ing] at least one financial server connected through a public network to a number of users associated with client computers. Each user accesses the financial server through a web browser. The web browser is provided with the capabilities to generate encryption keys, to encrypt and decrypt HTML forms, and to digitally sign and timestamp HTML forms. The financial server transfers web pages including HTML forms representing financial transactions. [...] An HTML form can be transmitted in an encrypted format, in a format including a user’s digital signature and timestamp, and in an encrypted format that contains the user’s digital signature and timestamp. The financial server tracks each processed transaction through an audit trail including the user’s account, the user’s digital signature, the timestamp of the transaction, and the text of the transaction.”

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

Chang et al., col. 4, lines 21-31 describe:

“web browser 216 is equipped with encryption procedures 220, timestamp procedures 228, digital signature procedures 230, and random key generation procedures 232. The random key generation procedures 232 are used to generate session keys that are used in conjunction with the encryption procedures 220 to encrypt a return message. The digital signature 230 and timestamp 228 procedures enable the web browser to digitally sign and timestamp a return message 143. In addition, the initialization procedures 226 enable the web browser 216 to generate encryption keys 218 that are used to represent and verify a user’s digital signature.”

Thus, the Examiner equates a web browser encrypting financial transaction data using a digital signature with applying a distinguishable watermark to a message entry. During patent examination, however, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the “ordinary” and “customary” meaning of the terms of the claims; the ordinary and customary meaning of terms may be evidenced in dictionaries and treatises. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2s 1812. Appellants respectfully assert that Chang et al. and Tang et al., separately or in combination, do not teach or suggest applying a separate distinguishable watermark to each of a plurality of message entries because Chang’s web browser for encrypting transmissions using a digital signature does not teach or suggest a messaging server for applying digital signatures to message entries of a messaging session.

In particular, Appellants respectfully assert that in examining claims 1, 14, and 25 with the broadest reasonable interpretation consistent with the specification and consistent with the interpretation that those skilled in the art would reach, it is clear that a “digital signature”, which encrypts data for secure transmission, does not teach or suggest a “digital watermark”, which is data embedded in a file to identify origin and ownership. The terms “digital signature” and “digital watermark” have plain meanings that clearly show that applying a digital signature does

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

not teach or suggest applying a digital watermark. Digital signature is defined as “a security mechanism used on the Internet that relies on two keys, one public and one private, that are used to encrypt messages before transmission and to decrypt them on receipt.” Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 159. Digital watermark is defined as “a unique identifier embedded in a file to deter piracy and prove file ownership and quality. Digital watermarking is often used with graphics and audio to identify the owner’s rights to these works.” Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 160. Moreover, the specification of the present invention and indicates a definition of watermarking in line with the dictionary definition, where the specification describes watermarking as “modifying the text, graphics, video, or audio included in a messaging session in a way such that the *origin of the messaging session is traceable and the integrity of the messaging session is later verifiable*” (Specification, p. 8, lines 19 -22) (emphasis added).

Therefore, because a digital signature and a digital watermark are different types of digital protection with different purposes; Chang et al.’s financial transaction system that enables web browsers to apply digital signatures (Chang et al., col. 4, lines 21-31) does not teach or suggest a server that applies watermarks to messaging session entries to identify the client system originating each entry.

In addition, the Examiner states that “Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system. However, Tang teaches a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item (see abstract). Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract; col. 1, line 59-col. 2, line 49).”

[Office Action, p. 4] The abstract of Tang reads:

“A system generates an audio signature for a data item based on a source identifier associated with the data item. The system receives a source identifier along with a data item and maps the source identifier to the audio signature using a mapping function that allows a user to distinguish the audio signature from other audio signatures generated for other sources. The mapping functions always map the same source identifier to the same audio signature. The system outputs the audio signature to a user. This enables the user to associate the audio signature with the source. The data item can include, an electronic mail message, a pager signal, a telephone call, a data item in an instant messaging system, an indicator of an entry of a new participant into a conference call or a chat room, or an electronic cookie that identifies a client computer system to a web site.”

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

Tang et al., col. 1, line 58-col. 2, line 6, describes:

“a system that generates an audio signature for a data item based on a source identifier associated with the data item. The system operates by receiving a source identifier along with a data item. (This source identifier can include an electronic signature identifying a source of a data item, such as an email address.) The system maps the source identifier to the audio signature using a mapping function that allows a user to distinguish the audio signature from other audio signatures generated for other source identifiers, and where the mapping function always maps the same source identifier to the same audio signature. Next, the system outputs the audio signature to a user. This enables the user to associate the audio signature with the source from which the data item originated.”

In addition, Tang et al., col. 2, lines 12-19 describe that “the data item can include an electronic mail message, a paper signal, a telephone call, a communication in an instant messaging system, an indicator of a new participant into a conference call, an indicator of an entry of a new participant into a chat room, or an electronic cookie that identifies a client computer system to a website.”

Thus, when Tang et al. is considered as a whole, Tang et al. describes a system that (1) receives a communication of a data item, (2) generates a sound based on a source identifier (such as an IP address) associated with the data item, and (3) controls output of the generated sound at the receiving system to identify, at that particular receiving system, the source of the new communication. *Tang, et al.*, col. 1, line 58-col. 2, line 19, col. 3, lines 34-57. Tang et al. describes that a communication may include a communication in an instant messaging system. *Tang, et al.*, col. 2, lines 12-19. Tang et al.’s description of outputting a particular sound to “enable the user to associate the audio signature with the source from which the data item originated” does not, however, teach “an audio signature attached to a data item in an instant messaging system”, as asserted by the Examiner. In addition, Tang et al.’s description of generating and outputting the audio signature does not describe applying an audio signature to an instant messaging communication. Further, Appellants respectfully assert that Tang et al.’s generated audio signature is created at the receiving system, based on preferences set at the receiving system, and therefore only audibly identifies a “source identifier” of a communication as generated by that particular receiving client system for a particular receiving user.

In contrast, claims 1, 14, and 25 teach a server system facilitating a chat messaging session by applying a separate distinguishable watermark to each of a plurality of message entries, where the watermark applied to the message entry identifies a separate origin of a client

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

system sending the message entry during the messaging session. In addition, Appellants respectfully assert that when claims 1, 14, and 25 are considered as a whole, the claims do not “use of a digital watermark on messages in a chat messaging system”, as asserted by the Examiner, but claims 1, 14, and 25 describe the server system facilitating the distribution of entries in a chat messaging session also applying a separate distinguishable watermark to each of the message entries in the chat messaging session to identify the origin of each message entry from among the client systems participating in the chat session.

Therefore, because Tang merely describes generating audio at the client system receiving a communication for output at that client system, where the audio identifies the “source identifier” of the communication, and Tang does not in fact teach “use of an audio signature attached to a data item in an instant messaging system”, Tang does not teach or suggest a messaging server that both facilitates the messaging session and applies watermarks to messaging session entries to identify the client system originating each entry.

In conclusion, because neither Chang et al. nor Tang et al. teaches or suggests applying a separate distinguishable watermark to each of a plurality of message entries, the combination of Chang et al. and Tang et al. also does not teach a server system for applying a separate distinguishable watermark to each of a plurality of message entries. Because Chang et al. and Tang et al., separately or in combination do not teach or suggest the chat messaging system for applying a separate distinguishable watermark to each of the message entries in a chat messaging session of claims 1, 14, and 25, Chang et al. and Tang et al. fail to teach or suggest at least one element of claims 1, 14, and 25 and therefore a prima facie case of obviousness is not established.

Third Appellants respectfully assert that neither Chang et al. or Tang et al., separately or in combination, teaches or suggests recording a log of said chat messaging session, wherein said log comprises said plurality of messaging entries with each said separate distinguishable watermark applied, such that an origin of each of said plurality of message entries stored in said log is traceable and the integrity of each of said plurality of message entries stored in said log is verifiable according to said distinguishable watermark because neither Chang et al. nor Tang et al. teaches recording a log of the entries from a real time chat messaging session. In the rejection of recording a log of said chat messaging session, the Examiner cites Chang et al, col. 5, lines 55-67 which the Examiner summarizes as disclosing “an audit trail that keeps track of users and

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

their digital signatures on messages and a digital signature signifying a particular user which identifies the origin of the message" and col. 2, line 62-col. 3, line 4 which the Examiner summarizes as disclosing "the storage of a users public key to verify a digital signature." [Office Action, p. 3] Col. 5, lines 55-67 of Chang et al describes:

Each entry 242 in the audit trail 122 can contain an account identifier 243 associated with a particular user, the digital signature 244 associated with a particular user, a timestamp 245 representing the date and time at which the user digitally signed the transaction, and the text 246 associated with the transaction. In some cases, a transaction form will contain the users digital signature and timestamp. In these cases, the users digital signature and timestamp can be used to refute potential repudiation claims by the user. The existence of the user's digital signature and timestamp signifies that a particular user executed the transaction and at a certain date and time. The ability to refute repudiation claims is sometimes called "nonrepudiation."

Appellants respectfully assert that Chang et al., col. 5, lines 55-67 merely describes an audit trail that records each individual financial transaction between the server and the client; in contrast, claims 1, 14, and 25 a log of a messaging session, with multiple message entries from multiple separate client systems passed through a messaging session channel facilitated by the server between the client systems. Further, while Chang et al. describes recording a single transaction in each entry of an audit trail (Chang et al., col. 5, lines 655-67), in contrast, claims 1, 14, and 25 teach recording a log of the messages with watermarking passing through the real time communication channel facilitated by the chat server between the multiple client systems. Therefore, because Chang et al.'s transaction audit trail does not teach or suggest recording a log of the entries from a real time chat messaging session and, as previously asserted, Tang et al.'s customized communication alert system does not teach or suggest a chat messaging server for facilitating a chat messaging channel or a chat messaging server for applying a separate digital watermark to each message entry, the combination of Chang et al. and Tang et al. also does not teach or suggest recording a log of the entries from a real time chat messaging session.

In conclusion, a prima facie case of obviousness under 103(a) is not established for claims 1, 14, or 25 because at least one element of each of claims 1, 14, and 25 is not taught by Chang et al. in view of Tang et al.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**There is no suggestion or motivation to modify Chang et al. by Tang et al.**

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify the reference. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438, 1442 (Fed Cir. 1991). The suggestion or motivation to modify Chang et al. by Tang et al. must come from the teachings the references, and the examiner must explicitly point to the teaching within the reference suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used “hindsight” occasioned by Appellants’ own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989).

Appellants respectfully assert that there is no motivation to modify Chang et al. by Tang et al. because there is no motivation to modify Chang et al. to teach a “chat messaging system” or applying watermarking to messages communicated in a chat messaging session facilitated by the chat messaging system. The Examiner states that Chang et al. discloses the elements of claims 1, 14, and 25 except “the limitation further including the use of a digital watermark on messages in a chat messaging system.” The Examiner cites Tang as teaching “a method and apparatus for generating an audio signature for a data item based on a source identifier associated with the data item” in the abstract of Tang. [Final Office Action, p. 3] In addition, the Examiner cites Tang as teaching “the use of an audio signature attached to a data item in an instant messaging system.” [Final Office Action, p. 3] The Examiner concludes “it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system. One would be motivated to do so because the signatures can convey where and whom the messages originated from. [Final Office Action, p. 4]

Chang et al., abstract and col. 5, lines 55-67, describes a financial transaction system that secures financial transaction communications between a client system and the server by applying digital signatures to communications. Thus, Chang et al. describes that multiple users may access the server system and communicate with the server system for financial transaction communications, but nothing in Chang et al. suggests modifying the communication between a client and the server to a chat messaging session or modifying the server to facilitate

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

communication between the multiple clients. Therefore, neither Chang et al. nor the Examiner articulates a motivation for modifying Chang et al.'s financial transaction system to teach a chat messaging system.

Further, as previously noted, Tang et al. does not teach any "use of an audio signature attached to a data item in an instant messaging system", as stated by the Examiner, other than the use where "the system outputs audio signature 116 through output device 118 from Fig 1 so that user 120 can hear audio signature 116 (step 208). *Tang et al.*, col. 4, lines 16-19. No portion of Tang et al. teaches or suggests applying the audio signature to messages communicated in a chat messaging session. Therefore, regardless of the Examiner's assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention "to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system", Tang et al. clearly does not teach "use" of an audio signature in any manner other than as an audio signal output to the user. Therefore, neither Tang et al. nor the Examiner articulates a motivation or modifying Chang et al.'s financial transaction system to teach applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within said chat messaging session.

In addition, as to claims 3, 9, 12, 13, 20, 23, 24, 31, 34, and 35, Appellants respectfully assert that because the independent claims 1, 14, and 25 upon which dependent claims 3, 9, 12, 13, 20, 23, 24, 31, 34, and 35 rely are not obvious in view of Chang et al. in view of Tang et al., then the dependent claims 3, 9, 12, 13, 20, 23, 24, 31, 34, and 35 are also not obvious in view of Chang et al. in view of Tang et al. and the dependent claims should be allowed.

## **2. 35 U.S.C. 103(a), Alleged Obviousness, Claims 5, 16, and 27**

The Final Office Action rejects claims 5, 16, and 27 under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477). [Final Office Action, p. 4] First, Appellants respectfully assert that because the independent claims 1, 14, and 25 upon which these dependent claims 5, 16, and 27 rely are not obvious in view of Chang et al. in view of Tang et al., then the dependent claims 5, 16, and 27 are also not obvious in view of Chang et al. in view of Tang et al. and the dependent claims should be allowed. Second, the rejection is respectfully traversed.



Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

Claim 5, which is representative of claims 16 and 27 in grounds of rejection, reads:

5. The method for recording a chat messaging session according to claim 1, said step of applying a separate distinguishable digital watermark further comprising the step of:

applying a separate textual watermark to each of said plurality of message entries within said chat messaging session.

The Examiner states that Chang et al, col. 4, lines 21-31 reads on the elements of claims 5, 16, and 27. [Office Action, p. 4]. Chang et al., col. 4, lines 21-31 describe:

In addition, the web browser 216 is equipped with encryption procedures 220, timestamp procedures 228, digital signature procedures 230, and random key generation procedures 232. The random key generation procedures 232 are used to generate session keys that are used in conjunction with the encryption procedures 220 to encrypt a return message. The digital signature 230 and timestamp 228 procedures enable the web browser to digitally sign and timestamp a return message 143. In addition, the initialization procedures 226 enable the web browser 216 to generate encryption keys 218 that are used to represent and verify a user's digital signature.

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to 5, 16, and 27 for the following reasons.

As previously asserted, the Chang et al.'s digital signature does not teach or suggest a digital watermark. In addition, Appellants respectfully assert that Chang's description of encrypting a transmission with a digital signature does not teach or suggest applying a separate textual watermark to each of said plurality of message entries within said chat messaging session. As previously asserted, a digital signature is defined as "a security mechanism used on the Internet that relies on two keys, one public and one private, that are used to encrypt messages before transmission and to decrypt them on receipt." Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 159. In contrast, a digital watermark is "a unique identifier embedded in a file" (Microsoft Computer Dictionary, p. 160) or "modif[ies] the text" (Specification, p. 8, lines 19-22). Thus, when claims 5, 16, and 27 are viewed as a whole and textual watermark is given its plain and ordinary meaning as would be applied by one with skill in the relevant art, a textual watermark applied to a message entry describes embedding a

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

unique textual identifier in each message entry so that the actual text of the message entry is modified. Therefore, Chang et al.'s description of "generat[ing] encryption keys 218 that are used to represent and verify a user's digital signature" (Chang et al., col. 4, lines 29-32) does not teach or suggest applying a textual watermark to each of the message entries within the chat messaging session.

Therefore, because neither Chang et al. nor Tang et al. teaches at least one element of claims 5, 16, and 27, Appellants respectfully assert that a prima facie case of obviousness is not established under 35 USC 103(a) and the claims should be allowed.

### **3. 35 U.S.C. 103(a), Alleged Obviousness, Claims 8, 19, and 30**

The Final Office Action rejects claims 8, 19, and 30 under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477). [Final Office Action, pp. 4-5] First, Appellants respectfully assert that because the independent claims 1, 14, and 25 upon which these dependent claims 8, 19, and 30 rely are not obvious in view of Chang et al. in view of Tang et al., then the dependent claims 8, 19, and 30 are also not obvious in view of Chang et al. in view of Tang et al. and the dependent claims should be allowed. Second, the rejection is respectfully traversed.

Claim 8, which is similar in subject matter and rejection to claims 19 and 30, reads:

8. The method for recording a chat messaging session according to claim 1, said method further comprising the step of:

transmitting said log of said chat messaging session to a plurality of users participating in said chat messaging session.

The Examiner rejects claims 8, 19, and 30 based on Chang et al., col. 4, lines 21-31, col. 5, lines 55-67 and col. 8, lines 59-66. [Office Action, p. 5] In particular, the Examiner states that these portions of Chang et al. disclose "processing requests and transactions from the user which includes their digital signatures." [Office Action, p. 5]

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to 8, 19, and 30 for the following reasons.

Appellants respectfully assert that regardless of whether Chang et al. describes "processing requests and transactions from the user which include their digital signatures",

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

Chang et al. does not teach or suggest transmitting said log of said chat messaging session to a plurality of users participating in said chat messaging session. Col. 4, lines 21-31, col. 5, lines 55-67, and col. 8, lines 59-66 of Chang et al. describe how a client web browser attaches a digital signature to transaction message requests sent from the client to the server. However, the Examiner does not cite, nor does Chang et al. disclose the server transmitting the log of transactions to users. Further, even if Chang et al. were modified to teach a chat messaging server, the Examiner does not cite any portion of Chang et al. or Tang et al. that would teach or suggest a chat messaging server that transmits the log of the messaging session with digital watermarks applied to multiple users. Therefore, because neither Chang et al. nor Tang et al., separately or in combination, teaches or suggests a server facilitating a chat messaging session between multiple client systems, recording the message entries of the chat messaging session, or transmitting a log of the entries to the users participating in the chat messaging session, at least one element of claims 8, 19, and 30 is not taught or suggested by Chang et al. in view of Tang et al. Because at least one element of claims 8, 19, and 30 is not taught or suggested by Chang et al. in view of Tang et al., a prima facie case of obviousness is not established in claims 8, 19, and 30 and the claims should be allowed.

**4. 35 U.S.C. 103(a), Alleged Obviousness, Claims 36-39, 41-44, and 46-49**

The Final Office Action rejects claims 36-39, 41-44, and 46-49 under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477). [Final Office Action, pp. 7-8]. The rejection is respectfully traversed.

Claim 36, which is representative of system claim 41 and program product claim 46 with regard to similarly recited rejection, reads as follows:

36. A method, in a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network, for participating in a chat messaging session facilitated through said chat messaging session channel, said method comprising the steps of:

participating in a chat messaging session by receiving from said chat messaging server a plurality of messaging entries as each messaging entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems; and receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server,

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark, wherein each said separate digital watermark identifies a separate origin of each of said plurality of message entries from among separate ones of said plurality of client systems, such that use of said recording of said chat messaging session is traceable according to a watermark.

The Examiner states the following grounds of rejection of claims 36, 41, and 45:

Regarding claims 36, 41, and 46, Chang teaches the method, system, and program for participating in a messaging session, said method, system, and program further comprising the step of:

participating in a messaging session by receiving a plurality of messaging entries from a plurality of users participating in said messaging session (fig. 1, fig. 2, col. 1, lines 55-65); and

receiving a recording of said messaging session, wherein said plurality of message entries for said messaging session are watermarked, such that use of said recording of said messaging session is traceable according to a watermark (col. 5, lines 55-67).

Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system.

However, Tang teaches a method and an apparatus for generating an audio signature for a data base item based on a source identifier associated with the data item (see abstract). Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract; col. 1, line 59 – col. 2, line 49).

It would have been obvious to one of ordinary skill in the art at the same time of the invention to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system. One would be motivated to do so because the signatures can convey where and whom the message originated from. [Office Action, pp. 7-8]

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to 36, 41, and 45 for the following reasons.

**Chang et al. and Tang et al. do not teach or suggest all of the claim limitations of claims 36, 41, and 45**

In establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In particular, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Appellants respectfully note that the Examiner does not show, nor do the references teach or suggest, separately or in combination, each of the elements of claims 36, 41, and 45.

First, the Examiner's rejection does not address how Chang et al nor Tang et al, separately or in combination, teaches or suggests a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network, for participating in a chat messaging session facilitated through said chat messaging session channel. While claim 36 includes the limitation of "a particular client system" in the preamble of the claim, claims 41 and 45, which are rejected on the same grounds as claim 36, include elements of "a particular client messaging system from among a plurality of client systems communicatively connected to a network, wherein said plurality of client systems are enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network" (claim 36) and "a particular client messaging system from among a plurality of client systems communicatively connected to a network, wherein said plurality of client systems are enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network" (claim 41). The Examiner does not address these limitations in the rejection of claims 36, 41, and 45.

Appellants note the lack of reference to the element of a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network, for participating in a chat messaging session facilitated through said chat messaging session channel because the only mention in either of Chang et al. and Tang et al. of a client system participating in a chat messaging session is Tang et al.'s description of a computer system receiving a communication in an instant messaging system. Tang et al, col. 2, lines 12-16. Appellants respectfully assert that even if the computer system receiving a communication in an instant messaging system may describe a client system enabled to communicate in a chat messaging session, neither Chang et al, Tang et al, or the Examiner's rejection of claims 36, 41, and 45 actually teaches or suggests either of the elements of a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

by a chat messaging server via a network, for participating in a chat messaging session facilitated through said chat messaging session channel.

Second, the Examiner's rejection does not address how Chang et al nor Tang et al, separately or in combination, teaches or suggests participating in a chat messaging session by receiving from said chat messaging server a plurality of messaging entries as each messaging entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems.

The Examiner cites Chang et al's financial transaction system for transmitting encrypted messages between a client system and a server system (Chang et al, figures 1 and 2, col. 1, lines 55-65) as reading on "participating in a messaging session by receiving a plurality of message entries from a plurality of users participating in said messaging session." Chang et al. describes a financial transaction processing system a server that communicates with each individual client computer to facilitate individual transactions. *Chang et al*, figures 1 and 2, col. 1, lines 55-65. Chang et al., and in particular Chang et al. col. 5, lines 55-67, does not describe a system that participates in a single messaging session with message entries from multiple users participating in the messaging system. Therefore, Chang et al. also does not teach or suggest the modified element that the Examiner claims Chang et al to read on of "participating in a messaging session by receiving a plurality of message entries from a plurality of users participating in said messaging session."

The Examiner states that "Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system." [Office Action, p. 7] The Examiner states that "Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract, col. 1, line 59-col. 2, line 49)." [Office Action, p. 7] When Tang et al. is considered as a whole, Tang et al. describes a system that (1) receives a communication of a data item, (2) generates a sound based on a source identifier (such as an IP address) associated with the data item, and (3) controls audio output of the generated sound at the receiving system to identify, at that particular receiving system, the source of the new communication. *Tang, et al*, col. 1, line 58-col. 2, line 19, col. 3, lines 34-57. Tang et al. only refers to an instant messaging system in listing examples of communications received at a system, where a communication may include a communication in an instant messaging system. *Tang et al.*, col. 2, lines 12-19. In addition, Tang et al. only describes generating an audio

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

signature and controlling audio output of the audio signature, therefore the only “use” of an audio signature described by Tang et al. is audio output; the audio signature is not “attached to a data item in an instant messaging system” as stated by the Examiner.

Third, the Examiner’s rejection does not address how Chang et al nor Tang et al, separately or in combination, teaches or suggests receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server. The Examiner cites Chang et al, col. 5, lines 55-67 as reading on “receiving a recording of said messaging session, wherein said plurality of message entries for said messaging session are watermarked, such that use of said recording of said messaging session is traceable according to said watermark.” As previously stated, Chang et al., and in particular Chang et al. col. 5, lines 55-67, does not describe a system that participates in a single messaging session with message entries from multiple users participating in the messaging system. Therefore, Chang et al. also does not teach or suggest the modified element that the Examiner claims Chang et al to read on of “receiving a recording of said messaging session, wherein said plurality of message entries for said messaging session are watermarked, such that use of said recording of said messaging session is traceable according to said watermark.”

In addition to Chang et al and Tang et al individually not teaching the limitations stated by the Examiner, the combination of Chang et al and Tang et al does not teach or suggest all the limitation of participating in a chat messaging session by receiving from said chat messaging server a plurality of messaging entries as each messaging entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems and receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server. When viewed as a whole, claims 36, 41, and 45 teach a particular client system participating in a chat messaging session by receiving from the chat messaging server a plurality of message entries as each message entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems. In addition to receiving the message entries at the client system as each entry is entered and transmitted by the chat messaging server, separately, the client system receives a recording of the chat messaging session from the chat messaging server. Thus, even if Chang et al. read on “participating in a messaging session by receiving a plurality of message entries from a plurality

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

of users participating in said messaging session” and “receiving a recording of said messaging session” as asserted by the Examiner, the mere reference in Tang et al. to “a communication in an instant messaging system” does not lead to a modification of Chang et al. and Tang et al. that teaches a particular client system participating in a chat messaging session and receiving the entries in real time as entered at other client systems and separately, receiving a log of the recorded messaging session.

Further, Appellants respectfully assert that the Examiner’s assertion that Chang et al., col. 5, lines 55-67 reads on both “participating in a messaging session by receiving a plurality of message entries from a plurality of users participating in said messaging session” and “receiving a recording of said messaging session” is flawed. Col. 5, lines 48-67 describes “a format of the server’s audit trail 122. The audit trail 122 is used to track each transaction that is process by the financial server 122....Each entry 242 in the audit trail 122 can contain an account identifier 243 associated with a particular user, the digital signature 244 associated with a particular user, a timestamp 245 representing the date and time at which the user digitally signed the transaction, and the text 246 associated with the transaction...” Thus, col. 5, lines 48-67 describes a server system recording an audit trail of each transaction between the server and each of the client systems for use by the server in repudiating claims. The Examiner, however, has removed all limitations indicating which system is participating in a messaging session and which system is receiving a recording of the messaging session. However, regardless of whether a client system or server system performs each of the steps, Col. 5, lines 48-67 do not describe either (1) a client system receiving the message entries from the other users communicating with the server system and receiving a recording of the messaging session or (2) a server system receiving a recording of the messaging session.” Further, in view of the flawed reliance on Chang et al, the mere reference in Tang et al. to “a communication in an instant messaging system” does not lead to a modification of Chang et al. and Tang et al. that teaches a particular client system participating in a chat messaging session and receiving the entries in real time as entered at other client systems and separately, receiving a log of the recorded messaging session.

Third, neither Chang et al. nor Tang et al, separately or in combination, teaches or suggests receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark,



Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

wherein each said separate digital watermark identifies a separate origin of each of said plurality of message entries from among separate ones of said plurality of client systems, such that use of said recording of said chat messaging session is traceable according to a watermark because neither Chang et al. nor Tang et al. teaches or suggests a recording of the chat messaging session wherein the plurality of message entries for the chat messaging session are each embedded by a separate digital watermark. The Examiner cites col. 5, lines 55-67 as reading on "receiving a recording of said messaging session, wherein said plurality of message entries for said messaging session are watermarked, such that use of said recording of said messaging session is traceable according to a watermark." [Office Action, p. 8] Col. 5, lines 55-67 describe a server audit trail 122 that can contain the digital signature associated with a particular user and a timestamp representing the date and time at which the user digitally signed the transaction, wherein the user's digital signature and timestamp can be used to refute potential repudiation claims by the user. Thus, the Examiner equates a digital signature entry in an audit trail, where the digital signature was used to encrypt financial transaction data as reading on a recording of a messaging session wherein the plurality of message entries are watermarked.

During patent examination, however, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and "customary" meaning of the terms of the claims; the ordinary and customary meaning of terms may be evidenced in dictionaries and treatises. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2s 1812. Appellants respectfully assert that Chang et al.'s audit trail that includes for each entry the digital signature associated with a particular user does not teach or suggest watermarked entries and therefore also does not teach or suggest a client system receiving a recording of a messaging session, wherein the plurality of message entries for the messaging session are watermarked.

In particular, Appellants respectfully assert that in examining claims 36, 41, and 45 with the broadest reasonable interpretation consistent with the specification and consistent with the

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

interpretation that those skilled in the art would reach, it is clear that a “digital signature”, which encrypts data for secure transmission, does not teach or suggest a “digital watermark”, which is data embedded in a file to identify origin and ownership. The terms “digital signature” and “digital watermark” have plain meanings that clearly show that applying a digital signature does not teach or suggest applying a digital watermark. Digital signature is defined as “a security mechanism used on the Internet that relies on two keys, one public and one private, that are used to encrypt messages before transmission and to decrypt them on receipt.” Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 159. Digital watermark is defined as “a unique identifier embedded in a file to deter piracy and prove file ownership and quality. Digital watermarking is often used with graphics and audio to identify the owner’s rights to these works.” Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 160. Moreover, the specification of the present invention and indicates a definition of watermarking in line with the dictionary definition, where the specification describes watermarking as “modifying the text, graphics, video, or audio included in a messaging session in a way such that the *origin of the messaging session is traceable and the integrity of the messaging session is later verifiable*” (Specification, p. 8, lines 19 -22) (emphasis added).

Therefore, because a digital signature and a digital watermark are different types of digital protection with different purposes; Chang et al.’s financial transaction system that enables web browsers to apply digital signatures (Chang et al., col. 4, lines 21-31) and maintains an audit trail of digital signatures associated with users (Chang et al, col. 5, lines 55-67) does not teach or suggest a client system that receives a “recording of the messaging session, wherein the plurality of message entries for the messaging session are watermarked”, as stated by the Examiner.

In addition, Appellants note that claims 36, 41, and 45, when considered as a whole, teach a client system participating in a chat messaging session and receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark. Chang et al alone clearly does not teach each of the elements of claims 36, 41, and 45. In addition, Appellants respectfully assert that the combination of Chang et al.’s financial transaction system with Tang’s description that the communication received at a computer system may include “a communication in an instant messaging system” (Tang et al, col. 2, lines 12-16) does not teach or suggest a client system

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

participating in a chat messaging session and receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark. In particular, contrary to the Examiner's assertions, Tang merely describes generating audio at the client system receiving a communication for output at that client system, where the audio identifies the "source identifier" of the communication (Tang et al. col. 1, line 59-col. 2, line 19); Tang does not in fact teach "use of an audio signature attached to a data item in an instant messaging system" as asserted by the Examiner. The only "use" of an audio signature described by Tang is audio output of the audio signature so that a user can hear the audio signature. (Tang, col. 4, lines 16-18). Tang et al. does not teach or suggest a client system that participates in a messaging session, receiving message entries as entered at other participating client systems, and separately, receiving a recording of the messaging session with each message entry embedded with a watermark that identifies the origin of the message entry.

In conclusion, because neither Chang et al. nor Tang et al., separately or in combination, teaches or suggests receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark of claims 36, 41, and 45, Chang et al. and Tang et al. fail to teach or suggest at least one element of claims 36, 41, and 45 and therefore a prima facie case of obviousness is not established.

**There is no suggestion or motivation to modify Chang et al. by Tang et al.**

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify the reference. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438, 1442 (Fed Cir. 1991). The suggestion or motivation to modify Chang et al. by Tang et al. must come from the teachings the references, and the examiner must explicitly point to the teaching within the reference suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used "hindsight" occasioned by Appellants' own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed.

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

Cir. 1991); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989).

Appellants respectfully assert that there is no motivation to modify Chang et al. by Tang et al. because there is no motivation to modify Chang et al. to teach a client system participating in a chat messaging session with other client systems via a financial transaction server or separately, receiving a recording of the chat messaging session at the client system with each entry of the messaging session watermarked to identify the origin of the message. The Examiner states that Chang et al. discloses the elements of claims 36, 41, and 45 except “the limitation further including the use of a digital watermark on messages in a chat messaging system.” The Examiner cites Tang as teaching “a method and apparatus for generating an audio signature for a data item based on a source identifier associated with the data item” in the abstract of Tang. [Final Office Action, p. 3] In addition, the Examiner cites Tang as teaching “the use of an audio signature attached to a data item in an instant messaging system.” [Final Office Action, p. 3] The Examiner concludes “it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chang et al. in view of Tang et al. to use a digital watermark on messages in a chat messaging system. One would be motivated to do so because the signatures can convey where and whom the messages originated from. [Final Office Action, p. 4]

Chang et al., abstract and col. 5, lines 55-67, describes the audit trail of a financial transaction system that secures financial transaction communications between a client system and the server by applying digital signatures to communications and recording the digital signature associated with each transaction. Thus, Chang et al. describes that multiple users may access the server system and each communicate with the server system for financial transaction communications, but nothing in Chang et al. suggests modifying the communication between a client and the server to a chat messaging session or modifying the server to facilitate communication between the multiple clients or modifying the clients to participate in chat messaging sessions with one another via a financial transaction server. Therefore, neither Chang et al. nor the Examiner articulates a motivation for modifying Chang et al.’s financial transaction system to teach a client system participating in a chat messaging session or a chat messaging server for supporting the chat messaging session.

Further, as previously noted, Tang et al. does not teach any “use of an audio signature attached to a data item in an instant messaging system”, as stated by the Examiner, other than the

Serial No. 09/915,490  
 Atty Docket No. AUS920010396USI

use where “the system outputs audio signature 116 through output device 118 from Fig 1. so that user 120 can hear audio signature 116 (step 208). *Tang et al.*, col. 4, lines 16-19. No portion of Tang et al. teaches or suggests applying the audio signature to messages communicated in a chat messaging session. Therefore, regardless of the Examiner’s assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention “to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system”, Tang clearly does not teach “use” of an audio signature in any manner other than as an audio signal output to the user. Therefore, neither Tang et al. nor the Examiner articulates a motivation or modifying Chang et al.’s financial transaction system to teach a client system participating in a chat messaging session and receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark.

In addition, as to claims 37-39, 42-44, and 47-49, Appellants respectfully assert that because the independent claims 36, 41, and 46 upon which dependent claims 37-39, 42-44, and 47-49 rely are not obvious in view of Chang et al. in view of Tang et al., then the dependent claims 37-39, 42-44, and 47-49 are also not obvious in view of Chang et al. in view of Tang et al. and the dependent claims should be allowed.

#### **5. 35 U.S.C. 103(a), Alleged Obviousness, Claims 54, 55, and 56**

The Final Office Action rejects 54, 55, and 56 under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477). [Final Office Action, pp. 9, 10] The rejection is respectfully traversed.

Independent method claim 54, which is representative of system claim 55 and program product claim 56 with regard to similarly recited rejection, reads as follows:

54. A method, in a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network, for protecting message transmissions, said method comprising the step of:  
     detecting a new message entry entered at a client messaging system,  
     wherein said new message entry is intended for transmission through said chat

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

messaging session channel to said plurality of client system participating in a chat messaging session; and

applying a digital watermark to said new message entry prior to transmission for distribution within said chat messaging session, wherein said digital watermark identifies an origin of said new message entry from said particular client system, such that an origin of said new message entry is traceable to said client messaging system.

In the rejection of claims 54 and 56, the Examiner states the following grounds:

Regarding claim 54 and 56, Chang teaches a method and program for protecting message transmissions, said method and program comprising the step of:

detecting a new message entry entered at a client messaging system; and  
applying a watermark to said new message entry prior to transmission for distribution within a messaging session, such an origin of said new message entry is traceable to said client messaging system (fig. 1, fig. 2, col. 4, lines 21-31, col. 5, lines 55-67).

Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system.

However, Tang teaches a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item (see abstract). Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract; col.1, line 59 – col. 2, line 49).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system. One would be motivated to do so because the signatures can convey where and whom the message originated from. [Office Action, pp. 9-10]

In addition, in the rejection of claim 55, the Examiner states the following grounds:

Regarding claim 55, Chang teaches a system for protecting message transmissions, said system comprising:

a client messaging system communicatively connected to a network to a messaging session;

means for detecting a new message entry entered at said client messaging system; and

means for applying a watermark to said new image entry prior to transmission for distribution within said messaging session, such that an origin of said new message entry is traceable to said client messaging system (fig. 1, fig. 2, col. 1, lines 55-65, col. 4, lines 21-31, col. 5, lines 55-67).

Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system.

However, Tang teaches a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

(see abstract). Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract; col. 1, line 59 – col. 2, line 49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chang in view of Tang to use digital watermark on messages in a chat messaging system. One would be motivated to do so because the signatures can convey where and whom the message originated from. [Office Action, pp. 10-11]

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to 54, 55, and 56 for the following reasons.

Appellants respectfully assert that neither Chang et al. nor Tang et al., separately or in combination, teaches or suggests applying a digital watermark to said new message entry prior to transmission for distribution within said chat messaging session, wherein said digital watermark identifies an origin of said new message entry from said particular client system, such that an origin of said new message entry is traceable to said client messaging system.

Figures 1 and 2 of Chang et al. show a financial server 102 that communicates with one or more client computer 106, to send to each client computer an HTML document in a plain or encrypted format and receive a message from each client computer 106 with the form data. Further, Chang et al. describes a “financial transaction processing system” that “is used to ensure that financial transactions are securely transmitted between the user and server across a public network” (col. 1, lines 59-61). Col. 1, lines 61-65 of Chang et al. describe that the system “includes a group of users associated with client computers that are interconnected, by a computer network such as the Internet, to at least one financial server associated with a server computer.” Thus, Chang et al. describes a financial transaction processing system of at least one server that communicates with each individual client computer to facilitate individual transactions, but Chang et al. does not describe a server system that facilitates communication between each of the individual client systems. Chang et al., col. 4, lines 21-31 describe:

“web browser 216 is equipped with encryption procedures 220, timestamp procedures 228, digital signature procedures 230, and random key generation procedures 232. The random key generation procedures 232 are used to generate session keys that are used in conjunction with the encryption procedures 220 to encrypt a return message. The digital signature 230 and timestamp 228 procedures enable the web browser to digitally sign and timestamp a return message 143. In addition, the initialization procedures 226 enable the web

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

browser 216 to generate encryption keys 218 that are used to represent and verify a user's digital signature."

Chang et al., col. 5, lines 55-67, describes the audit trail of a financial transaction system that secures financial transaction communications between a client system and the server by applying digital signatures to communications and recording the digital signature associated with each transaction.

First, Appellants respectfully assert that Chang et al. does not each applying a digital watermark to the new message prior to transmission because Chang et al. only describes encrypting a transaction with a digital signature, not applying a digital watermark. Appellants note that the rejection of claims 54, 55, and 56 equates a web browser encrypting financial transaction data using a digital signature with applying a distinguishable watermark to a message entry. During patent examination, however, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and "customary" meaning of the terms of the claims; the ordinary and customary meaning of terms may be evidenced in dictionaries and treatises. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003); *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2s 1812. Appellants respectfully assert that in examining claims 54, 55, and 56 with the broadest reasonable interpretation consistent with the specification and consistent with the interpretation that those skilled in the art would reach, it is clear that a "digital signature", which encrypts data for secure transmission, does not teach or suggest a "digital watermark", which is data embedded in a file to identify origin and ownership. The terms "digital signature" and "digital watermark" have plain meanings that clearly show that applying a digital signature does not teach or suggest applying a digital watermark. Digital signature is defined as "a security mechanism used on the Internet that relies on two keys, one public and one private, that are used to encrypt messages before transmission and to decrypt them on receipt." Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 159. Digital watermark is defined as "a unique



Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

identifier embedded in a file to deter piracy and prove file ownership and quality. Digital watermarking is often used with graphics and audio to identify the owner's rights to these works." Microsoft Computer Dictionary, 5<sup>th</sup> Edition, copyright Microsoft Corporation 2002, p. 160. Moreover, the specification of the present invention and indicates a definition of watermarking in line with the dictionary definition, where the specification describes watermarking as "modifying the text, graphics, video, or audio included in a messaging session in a way such that the *origin of the messaging session is traceable and the integrity of the messaging session is later verifiable*" (Specification, p. 8, lines 19 -22) (emphasis added).

Therefore, because a digital signature and a digital watermark are different types of digital protection with different purposes; Chang et al.'s financial transaction system that enables web browsers to apply digital signatures (Chang et al. et al., col. 4, lines 21-31) does not teach or suggest client system that applies watermarks to messaging session entries to identify the client system originating each entry.

Second, Appellants respectfully assert that the combination of Chang et al. and Tang et al. does not teach applying a digital watermark to said new message entry prior to transmission for distribution within said chat messaging session. The Examiner states that "Chang fails to teach the limitation further including the use of a digital watermark on messages in a chat messaging system. However, Tang teaches a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item (see abstract). Tang teaches the use of an audio signature attached to a data item in an instant messaging system (abstract; col. 1, line 59-col. 2, line 49). The abstract of Tang reads:

"A system generates an audio signature for a data item based on a source identifier associated with the data item. The system receives a source identifier along with a data item and maps the source identifier to the audio signature using a mapping function that allows a user to distinguish the audio signature from other audio signatures generated for other sources. The mapping functions always map the same source identifier to the same audio signature. The system outputs the audio signature to a user. This enables the user to associate the audio signature with the source. The data item can include, an electronic mail message, a pager signal, a telephone call, a data item in an instant messaging system, an indicator of an entry of a new participant into a conference call or a chat room, or an electronic cookie that identifies a client computer system to a web site."

Tang et al., col. 1, line 58-col. 2, line 6, describes:

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

“a system that generates an audio signature for a data item based on a source identifier associated with the data item. The system operates by receiving a source identifier along with a data item. (This source identifier can include an electronic signature identifying a source of a data item, such as an email address.) The system maps the source identifier to the audio signature using a mapping function that allows a user to distinguish the audio signature from other audio signatures generated for other source identifiers, and where the mapping function always maps the same source identifier to the same audio signature. Next, the system outputs the audio signature to a user. This enables the user to associate the audio signature with the source from which the data item originated.”

In addition, Tang et al., col. 2, lines 12-19 describe that “the data item can include an electronic mail message, a paper signal, a telephone call, a communication in an instant messaging system, an indicator of a new participant into a conference call, an indicator of an entry of a new participant into a chat room, or an electronic cookie that identifies a client computer system to a website.”

Thus, when Tang et al. is considered as a whole, Tang et al. describes a system that (1) receives a communication of a data item, (2) generates a sound based on a source identifier (such as an IP address) associated with the data item, and (3) controls output of the generated sound at the receiving system to identify, at that particular receiving system, the source of the new communication. *Tang, et al.*, col. 1, line 58–col. 2, line 19, col. 3, lines 34–57. Tang et al. describes that a communication may include a communication in an instant messaging system. Tang, et al., col. 2, lines 12–19. Tang et al. does not, however, teach any “use of an audio signature attached to a data item in an instant messaging system”, as stated by the Examiner, other than the use where “the system outputs audio signature 116 through output device 118 from Fig 1 so that user 120 can hear audio signature 116 (step 208). *Tang et al.*, col. 4, lines 16–19. Further, no portion of Tang et al. teaches or suggests applying the audio signature to messages communicated in a chat messaging session. Therefore, regardless of the Examiner’s assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention “to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system”, Tang clearly does not teach “use” of an audio signature in any manner other than as an audio signal output to the user. Therefore, neither Tang et al. nor the Examiner articulates a motivation or modifying Chang et al.’s financial transaction system to teach a client system participating in a chat messaging session and applying a digital watermark to said new message entry prior to transmission for distribution within said chat messaging session.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**There is no suggestion or motivation to modify Chang et al. by Tang et al.**

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify the reference. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438, 1442 (Fed Cir. 1991). The suggestion or motivation to modify Chang et al. by Tang et al. must come from the teachings the references, and the examiner must explicitly point to the teaching within the reference suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used “hindsight” occasioned by Appellants’ own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989).

Appellants respectfully assert that there is no motivation to modify Chang et al. by Tang et al. because there is no motivation to modify Chang et al. to teach a client system participating in a chat messaging session with other client systems via a financial transaction server or that client system applying a watermark to a new message entry to be transmitted in a messaging session to identify the origin of the message. The Examiner states that Chang et al. discloses the elements of claims 36, 41, and 45 except “the limitation further including the use of a digital watermark on messages in a chat messaging system.” The Examiner cites Tang as teaching “a method and apparatus for generating an audio signature for a data item based on a source identifier associated with the data item” in the abstract of Tang. [Final Office Action, p. 3] In addition, the Examiner cites Tang as teaching “the use of an audio signature attached to a data item in an instant messaging system.” [Final Office Action, p. 3] The Examiner concludes “it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chang et al. in view of Tang et al. to use a digital watermark on messages in a chat messaging system. One would be motivated to do so because the signatures can convey where and whom the messages originated from. [Final Office Action, p. 4]

Chang et al., abstract and col. 5, lines 55-67, describes the audit trail of a financial transaction system that secures financial transaction communications between a client system and the server by applying digital signatures to communications and recording the digital signature associated with each transaction. Thus, Chang et al. describes that multiple users may

Serial No. 09/915,490  
 Atty Docket No. AUS920010396US1

access the server system and each communicate with the server system for financial transaction communications, but nothing in Chang et al. suggests modifying the communication between a client and the server to a chat messaging session or modifying the server to facilitate communication between the multiple clients or modifying the clients to participate in chat messaging sessions with one another via a financial transaction server. Therefore, neither Chang et al. nor the Examiner articulates a motivation for modifying Chang et al.'s financial transaction system to teach a client system participating in a chat messaging session or a chat messaging server for supporting the chat messaging session.

Further, as previously noted, Tang et al. does not teach any "use of an audio signature attached to a data item in an instant messaging system", as stated by the Examiner, other than the use where "the system outputs audio signature 116 through output device 118 from Fig 1 so that user 120 can hear audio signature 116 (step 208). *Tang et al.*, col. 4, lines 16-19. No portion of Tang et al. teaches or suggests applying the audio signature to messages communicated in a chat messaging session. Therefore, regardless of the Examiner's assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention "to modify Chang in view of Tang to use a digital watermark on messages in a chat messaging system", Tang clearly does not teach "use" of an audio signature in any manner other than as an audio signal output to the user. Therefore, neither Tang et al. nor the Examiner articulates a motivation or modifying Chang et al.'s financial transaction system to teach a client system participating in a chat messaging session and applying a digital watermark to said new message entry prior to transmission for distribution within said chat messaging session.

**6. 35 U.S.C. 103(a), Alleged Obviousness, Claims 6, 7, 17, 18, 28, and 29**

The Final Office Action rejects 6, 7, 17, 18, 28, and 29 under 35 U.S.C. §103(a) as being allegedly unpatentable over Chang et al. (US Patent 6,105,012) in view of Tang et al. (US Patent 6,532,477) and further in view of Rodriguez et al. (US Patent 6,650,761). [Final Office Action, pp. 11] The rejection is respectfully traversed.

Claims 6 and 7, which are representative of system claims 17 and 18 and program product claims 28 and 29, respectively, with regard to similarly received rejection, read:

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

6. The method for recording a chat messaging session according to claim 1, said step of applying a separate distinguishable digital watermark further comprising the step of:

applying a separate graphical watermark to each of said plurality of message entries within said chat messaging session.

7. The method for recording a chat messaging session according to claim 1, said step of applying a separate distinguishable digital watermark further comprising the step of:

applying a separate audible watermark to each of said plurality of message entries within said chat messaging session.

In the rejection of claims 6, 7, 17, 18, 28, and 29, the Examiner states the following grounds:

Chang teaches the invention substantially as claimed including a method and apparatus for securely transmitting transactions from an application program (see abstract). Tang teaches the invention substantially as claimed including a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item (see abstract).

As to claims 6, 7, 17, 18, 28, and 29, Chang and Tang teach the method, system, and program of claims 1, 14, 25.

Chang fails to teach the limitation further including the use of a graphical and audible watermark.

However, Rodriguez teaches systems using such optical interfaces to control computers, and to navigate over or act as portals in networks (see abstract). Rodriguez teaches the use of an audio watermark (col. 44, lines 66-67) and a graphical watermark (col. 53, lines 51-58).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chang in view of Rodriguez to use a graphical and audible watermark. One would be motivated to do so because it would allow for different options of visible watermarking. [Office Action, pp. 11-12]

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. Appellants respectfully assert that the Examiner does not carry the burden of proving a prima facie case of obviousness as to claims 6, 7, 17, 18, 28, and 29 for the following reasons.

**There is no suggestion or motivation to modify Chang et al. by Tang et al.**

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify the reference. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438, 1442 (Fed Cir. 1991).

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

The suggestion or motivation to modify Chang et al. by Tang et al. must come from the teachings the references, and the examiner must explicitly point to the teaching within the reference suggesting the proposed modification. Absent such a showing, the Examiner has impermissibly used "hindsight" occasioned by Appellants' own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989).

First, Appellants respectfully assert that there is no motivation to modify Chang et al and Tang et al. to teach applying a watermark to a message entry to be transmitted in a chat messaging system other than hindsight. In particular, the Examiner states "Chang teaches the invention substantially as claimed including a method and apparatus for securely transmitting transactions from an application program (see abstract). Tang teaches the invention substantially as claimed including a method and an apparatus for generating an audio signature for a data item based on a source identifier associated with the data item (see abstract)." To teach a server system of claims 1, 14, and 25 that applies a digital watermark to message entries transmitted through a chat messaging channel facilitated by the server system and records a log of the messaging session with the watermarked entries, the Examiner first modifies Chang et al's system from a transactional system for completing transactions between a server and multiple clients to a communication system for supporting communication between the multiple clients and then modifies the digitally encrypted secure transactions to watermarked message entries in a chat messaging session. Further, to teach the server system of claims 1, 14, and 25, the Examiner modified Chang et al's system by Tang et al.'s systems that merely describes generating an audio signature for a communication received at computer system to represent the source identifier associated with the data item. Tang et al., col. 1, line 58-col. 2, line 19. Further, as previously noted, Tang et al. does not teach any "use of an audio signature attached to a data item in an instant messaging system", as stated by the Examiner, other than the use where "the system outputs audio signature 116 through output device 118 from Fig 1 so that user 120 can hear audio signature 116 (step 208). *Tang et al.*, col. 4, lines 16-19. Therefore, regardless of the Examiner's assertion that it would have been obvious to one of ordinary skill in the art at the time of the invention "to modify Chang in view of Tang to use a digital watermark on messages

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

in a chat messaging system”, Tang clearly does not teach “use” of an audio signature in any manner other than as an audio signal output to the user. Therefore, Appellants respectfully assert, as previously asserted, that there is no motivation or suggestion for modifying Chang et al. to teach the chat messaging server of claims 1, 14, and 25 and there is also no motivation or suggestion for modifying Chang et al. by Tang et al.

Second, Appellants respectfully assert that because there is no motivation or suggestion or modifying Chang et al. by Tang et al. to teach a chat messaging server for applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within the chat messaging session, there is also no motivation or suggestion to modify Chang et al. by Tang et al. to teach a graphical watermark or audible watermark.

Third, Appellants respectfully assert that there is no motivation to modify Chang et al. and Tang et al. by Rodriguez because there is no motivation to modify a chat messaging server for digitally watermarking individual data message entries with an optical system for detecting a watermark stenographically encoded onto an object or paper product (Rodriguez, abstract, col. 1, lines 45-55). Claims 6, 7, 17, 18, 28, and 29, when each viewed as a whole, teach a chat messaging server for facilitating a chat messaging session between multiple client systems and digitally watermarking each message entry with either a graphical or audible digital watermark. Rodriguez describes an optical system that detects watermarks on objects or paper products. Rodriguez, abstract, col. 1, lines 45-55). In addition, the Examiner states that “Rodriguez teaches systems using such optical interfaces to control computers, and to navigate over or act as portals in networks (see abstract).” Appellants respectfully assert that merely because Rodriguez, col. 44, lines 66-67 describes a data field of an audio watermark and Rodriguez, col. 53, lines 51-58 describes the library of data, including icons, that can be selected to be embedded, there is no automatic motivation or suggestion to modify any system that teaches watermarking to also teach applying a graphical watermark or audible watermark. Further, there is no motivation or suggestion for modifying a chat messaging system that digitally watermarks message entries with an optical system, which though connected to a network, still scans watermarks from products. Therefore, because there is no motivation or suggestion to combine Rodriguez with Chang et al. and Tang et al. or to combine Rodriguez with the teachings of claims 1, 14, and 25, a prima facie case of obviousness is not established under 35 USC 103(a) in claims 6, 7, 17, 18, 28, and 29 and the claims should be allowed.

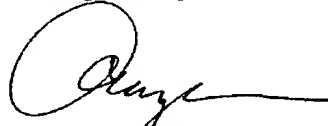
Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**CONCLUSION**

It is therefore respectfully requested that the Examiner's rejections be reversed and claims 1, 3, 5-9, 12-14, 16-20, 23-25, 27-31, 34-39, 41-44, 46-49, and 54-56 be allowed.

Please charge the fee of \$500.00 for submission of an Appeal Brief under 37 CFR 41.20(b)(2) to IBM Corporation Deposit Account No. 09-0447. No additional filing fee is believed to be necessary; however, in the event that any additional fee is required, please charge it to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

 on 3/14/06

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Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

### **VIII. Claims Appendix**

The Claims involved in the Appeal are as follows:

1. A method, in at least one server system for enabling at least one real time chat messaging session channel via a network between at least a selection of a plurality of separate client systems communicatively connected to said network, for recording a real time chat messaging session, said method comprising the steps of:

applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within said chat messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of said message entry from among said plurality of separate client systems; and

recording a log of said chat messaging session, wherein said log comprises said plurality of messaging entries with each said separate distinguishable watermark applied, such that an origin of each of said plurality of message entries stored in said log is traceable and the integrity of each of said plurality of message entries stored in said log is verifiable according to said distinguishable watermark.

3. The method for recording a chat messaging session according to claim 1, said method further comprising the step of:

applying each said separate distinguishable digital watermark and recording said log of said chat messaging session with said plurality of messaging entries at a particular client system from among said plurality of client systems.

5. The method for recording a chat messaging session according to claim 1, said step of applying a separate distinguishable digital watermark further comprising the step of:

applying a separate textual watermark to each of said plurality of message entries within said chat messaging session.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

6. The method for recording a chat messaging session according to claim 1, said step of applying a separate distinguishable digital watermark further comprising the step of:

applying a separate graphical watermark to each of said plurality of message entries within said chat messaging session.

7. The method for recording a chat messaging session according to claim 1, said step of applying a separate distinguishable digital watermark further comprising the step of:

applying a separate audible watermark to each of said plurality of message entries within said chat messaging session.

8. The method for recording a chat messaging session according to claim 1, said method further comprising the step of:

transmitting said log of said chat messaging session to a plurality of users participating in said chat messaging session.

9. The method for recording a chat messaging session according to claim 1, said method further comprising the step of:

storing said log of said chat messaging session in a log file repository for tracing said origin of said plurality of message entries according to each said separate distinguishable watermark.

12. The method for recording a chat messaging session according to claim 1, said method further comprising the step of:

applying each said separate distinguishable digital watermark in response to a user request received from at least one from among said plurality of client systems to record said plurality of messaging entries with watermarking.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

13. The method for recording a chat messaging session according to claim 1, said method further comprising the step of:

applying said distinguishable watermark to a plurality of message entries already recorded in a second log of said chat messaging session.

14. A system for recording a chat messaging session, said system comprising:

a messaging server communicatively connected to a network, said messaging server for enabling at least one real time chat messaging session channel via said network between at least a selection of a plurality of separate client systems communicatively connected to said network to facilitate said chat messaging session;

said messaging server further comprising:

means for applying a separate distinguishable digital watermark to each of a plurality of message entries communicated within said chat messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of said message entry from among said plurality of separate client systems; and

means for recording a log of said chat messaging session, wherein said log comprises said plurality of messaging entries with each said separate distinguishable watermark applied, such that an origin of each of said plurality of message entries stored in said log is traceable and the integrity of each of said plurality of message entries stored in said log is verifiable according to said distinguishable watermark.

16. The system for recording a chat messaging session according to claim 14, said means for applying a separate distinguishable digital watermark further comprising:

means for applying a separate textual watermark to each of said plurality of message entries within said chat messaging session.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

17. The system for recording a chat messaging session according to claim 14, said means for applying a separate distinguishable digital watermark further comprising:

means for applying a separate graphical watermark to each of said plurality of message entries within said chat messaging session.

18. The system for recording a chat messaging session according to claim 14, said means for applying a separate distinguishable digital watermark further comprising:

means for applying a separate audible watermark to each of said plurality of message entries within said chat messaging session.

19. The system for recording a chat messaging session according to claim 14, said messaging server further comprising:

means for transmitting said log of said chat messaging session to a plurality of users participating in said chat messaging session.

20. The system for recording a chat messaging session according to claim 14, said messaging server further comprising:

means for storing said log of said chat messaging session in a log file repository for tracing said origin of said plurality of message entries according to each said separate distinguishable watermark.

23. The system for recording a chat messaging session according to claim 14, said messaging server further comprising:

means for applying each said separate distinguishable digital watermark in response to a user request received from at least one from among said plurality of client systems to record said plurality of messaging entries with watermarking.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

24. The system for recording a chat messaging session according to claim 14, said messaging server further comprising:

means for applying said distinguishable watermark to a plurality of message entries already recorded in a second log of said chat messaging session.

25. A program for recording a chat messaging session, residing on a computer usable medium having computer readable program code means, said program comprising:

means for enabling at least one real time chat messaging session channel via a network between at least a selection of a plurality of separate client systems communicatively connected to said network to facilitate said chat messaging session;

means for controlling application of a separate distinguishable digital watermark to each of a plurality of message entries communicated within said chat messaging session, wherein each said separate distinguishable digital watermark identifies a separate origin of said message entry from among said plurality of separate client systems; and

means for controlling recording of a log of said chat messaging session, wherein said log comprises said plurality of messaging entries with each said separate distinguishable watermark applied, such that an origin of each of said plurality of message entries stored in said log is traceable and the integrity of each of said plurality of message entries stored in said log is verifiable according to said distinguishable watermark.

27. The program for recording a chat messaging session according to claim 25, said means for controlling application of a separate distinguishable digital watermark further comprising:

means for controlling application of a separate textual watermark to each of said plurality of message entries within said chat messaging session.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

28. The program for recording a chat messaging session according to claim 25, said means for controlling application of a separate distinguishable digital watermark further comprising:

means for controlling application of a separate graphical watermark to each of said plurality of message entries within said chat messaging session.

29. The program for recording a chat messaging session according to claim 25, said means for controlling application of a separate distinguishable digital watermark further comprising:

means for controlling application of a separate audible watermark to each of said plurality of message entries within said chat messaging session.

30. The program for recording a chat messaging session according to claim 25, said program further comprising:

means for enabling transmission of said log of said chat messaging session to a plurality of users participating in said chat messaging session.

31. The program for recording a chat messaging session according to claim 25, said program further comprising:

means for directing storage of said log of said chat messaging session in a log file repository for tracing said origin of said plurality of message entries according to each said separate distinguishable watermark.

34. The program for recording a chat messaging session according to claim 25, said program further comprising:

means for controlling application of each said separate distinguishable digital watermark in response to a user request received from at least one from among said plurality of client systems to record said plurality of messaging entries with watermarking.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

35. The program for recording a chat messaging session according to claim 25, said program further comprising:

means for controlling application of said distinguishable watermark to a plurality of message entries already recorded in a second log of said chat messaging session.

36. A method, in a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network, for participating in a chat messaging session facilitated through said chat messaging session channel, said method comprising the steps of:

participating in a chat messaging session by receiving from said chat messaging server a plurality of messaging entries as each messaging entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems; and

receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark, wherein each said separate digital watermark identifies a separate origin of each of said plurality of message entries from among separate ones of said plurality of client systems, such that use of said recording of said chat messaging session is traceable according to a watermark.

37. The method for participating in a chat messaging session according to claim 36, said method further comprising the step of:

requesting, from said chat messaging server, said recording of said chat messaging session with each of said plurality of entries embedded by said separate digital watermark.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

38. The method for participating in a chat messaging session according to claim 36, said method further comprising the step of:

participating in said chat messaging session by entering a messaging entry for distribution by said chat messaging server to said plurality of client systems through said chat messaging session channel.

39. The method for participating in a chat messaging session according to claim 36, said method further comprising the step of:

participating in said chat messaging session by entering watermarked message entries for distribution by said chat messaging server to said plurality of client systems participating in said chat messaging session.

41. A system for participating in a chat messaging session, said system comprising:

a particular client messaging system from among a plurality of client systems communicatively connected to a network, wherein said plurality of client systems are enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network;

means for participating in a chat messaging facilitated through said chat messaging session channel by receiving from said chat messaging server a plurality of messaging entries as each messaging entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems; and

means for receiving, separate from participating in said chat messaging session, a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said chat messaging session are each embedded by a separate digital watermark, wherein each said separate digital watermark identifies a separate origin of each of said plurality of message entries from among separate ones of said plurality of client systems, such that use of said recording of said chat messaging session is traceable according to a watermark.



Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

42. The system for participating in a chat messaging session according to claim 41, said system further comprising:

means for requesting, from said chat messaging server, said recording of said chat messaging session with each of said plurality of entries embedded by said separate digital watermark.

43. The system for participating in a chat messaging session according to claim 41, said system further comprising:

means for participating in said chat messaging session by entering a messaging entry for distribution by said chat messaging server to said plurality of client systems through said chat messaging session channel.

44. The system for participating in a chat messaging session according to claim 41, said system further comprising:

means for participating in said chat messaging session by entering watermarked message entries for distribution by said chat messaging server to said plurality of client systems participating in said chat messaging session.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

46. A program for participating in a chat messaging session, residing on a computer usable medium having computer readable program code means, said program comprising:

means for enabling a client system to communicate via at least one real time chat messaging session channel via a network between at least a selection of a plurality of separate client systems communicatively connected to said network, wherein a chat messaging server facilitates said chat messaging session channel;

means for enabling participation in a chat messaging session by receiving from said chat messaging server a plurality of messaging entries as each messaging entry is entered by separate ones of a plurality of separate users participating in said chat messaging session through separate ones of said plurality of client systems; and

means for enabling reception, separate from participating in said chat messaging session, of a recording of said chat messaging session from said chat messaging server, wherein said plurality of message entries for said messaging session are each embedded by a separate digital watermark, wherein each said separate digital watermark identifies a separate origin of each of said plurality of message entries from among separate ones of said plurality of client systems, such that use of said recording of said chat messaging session is traceable according to a watermark.

47. The program for participating in a chat messaging session according to claim 46, said program further comprising:

means for enabling transmission of a request to said chat messaging server for said recording of said chat messaging session with each of said plurality of entries embedded by said separate digital watermark.

48. The program for participating in a chat messaging session according to claim 46, said program further comprising:

means for participating in said chat messaging session by entering a messaging entry for distribution by said chat messaging server to said plurality of client systems through said chat messaging session channel.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

49. The program for participating in a chat messaging session according to claim 46, said program further comprising:

means for enabling participation in said chat messaging session by entering watermarked message entries for distribution by said chat messaging server to said plurality of client systems participating in said chat messaging session.

54. A method, in a particular client system from among a plurality of clients systems enabled to communicate with one another through a chat messaging session channel facilitated by a chat messaging server via a network, for protecting message transmissions, said method comprising the step of:

detecting a new message entry entered at a client messaging system, wherein said new message entry is intended for transmission through said chat messaging session channel to said plurality of client system participating in a chat messaging session; and

applying a digital watermark to said new message entry prior to transmission for distribution within said chat messaging session, wherein said digital watermark identifies an origin of said new message entry from said particular client system, such that an origin of said new message entry is traceable to said client messaging system.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

55. A system for protecting message transmissions, said system comprising:  
a particular client messaging system from among a plurality of client systems  
communicatively connected to a network, wherein said plurality of client systems are enabled to  
communicate with one another through a chat messaging session channel facilitated by a chat  
messaging server via a network;

means for detecting a new message entry entered at said particular client messaging  
system, wherein said new message entry is intended for transmission through said chat  
messaging session channel to said plurality of client system participating in a chat messaging  
session; and

means for applying a digital watermark to said new message entry prior to transmission  
from said particular client messaging system for distribution within said chat messaging session,  
wherein said digital watermark identifies an origin of said new message entry from said  
particular client system, such that an origin of said new message entry is traceable to said client  
messaging system.

56. A program for protecting message transmissions, residing on a computer usable medium  
having computer readable program code means, said program comprising:

means for enabling a client system to communicate via at least one real time chat  
messaging session channel via a network between at least a selection of a plurality of separate  
client systems communicatively connected to said network, wherein a chat messaging server  
facilitates said chat messaging session channel;

means for enabling detection of new message entry entered at a client system, wherein  
said new message entry is intended for transmission through said chat messaging session channel  
to said plurality of client system participating in a chat messaging session; and

means for controlling application of a digital watermark to said new message entry prior  
to transmission from said client system for distribution within said chat messaging session,  
wherein said digital watermark identifies an origin of said new message entry from said  
particular client system, such that an origin of said new message entry is traceable to said client  
messaging system.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**IX. Evidence Appendix**

There is no evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner that is relied upon by Appellants in the appeal.

Serial No. 09/915,490  
Atty Docket No. AUS920010396US1

**X. Related Proceedings Appendix**

There are no related appeals and therefore also no decisions rendered by a court or the Board in any related appeals.